

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

January 17, 2013

A meeting of the Board of Environmental Protection was held on Thursday, January 17, 2013 at the Civic Center, located at 76 Community Drive in Augusta, Maine. Robert Foley, Chair, called the meeting to order at 9:00 am with the following individuals:

Board: Present: Alvin Ahlers, Elizabeth Ehrenfeld, Robert Foley, M. Wing Goodale, Richard Gould, and Susan M. Lessard.
Absent: Board member Tom Eastler was absent.

Staff: Heather Parent, DEP Policy Director
George MacDonald, DEP Sustainability Director
Kerri Malinowski, DEP Sustainability Division
Dr. Andrew Smith, State Toxicologist, Dept. of Health and Human Services

Others: Patricia Aho, DEP Commissioner
Cynthia S. Bertocci, BEP Executive Analyst
Mary Sauer, Assistant Attorney General
Ruth Ann Burke, Board Clerk and Administrative Assistant

I. Departmental

A. Commissioner's Comments:

- Governor's Awards for Environmental Excellence: Nominations are open until February 22nd; the awards will be made in April. Information on the awards can be found on the DEP's website.
- Routine Technical Rules: The Commissioner announced that the Department has been working to implement live audio streaming of the meetings and hearings conducted on routine technical rules. Live audio should be fully implemented for the Department's next rulemaking meeting.
- Adjudicatory Hearings: The Department will be holding two adjudicatory hearings, one on the Bowers Mountain Wind Power Project and the other on Juniper Ridge. The Department has published notice of opportunity to intervene. The hearings will likely be held in the late February, early March timeframe.
- Clean Water State Revolving Loan Fund: The fund provides loan interest loans for the construction of wastewater facilities. The Department has partnered with FAME to expand the program to farmers and low income homeowners. The expansion of the program will help to improve water quality throughout the state.

B. Comments from the BEP Chair: None

C. Executive Analyst Comments: None

D. Board Calendar: Reviewed.

E. Departmental Orders/ Applications Accepted for Processing:
Reviewed.

F. Executive Session: None

II. Consent Agenda Items:

1. BEP Meeting Minutes: December 6, 2012 (approval)
The Board voted (6-0-0-1) on a motion to approve consent agenda item 1 as presented. The vote was taken pursuant to 38 M.R.S. § 341-D.
Board members Alvin Ahlers, Elizabeth Ehrenfeld, Robert Foley, M. Wing Goodale, Richard Gould and Susan M. Lessard voted to support the motion. Board member Thomas Eastler was absent.
2. BEP Meeting Minutes: December 20, 2012 (approval)
The Board voted (5-0-1-1) on a motion to approve consent agenda item 1 as presented. The vote was taken pursuant to 38 M.R.S. § 341-D.
Board members Alvin Ahlers, Robert Foley, M. Wing Goodale, Richard Gould and Susan M. Lessard voted to support the motion. Board member Elizabeth Ehrenfeld abstained. Board member Thomas Eastler was absent.
3. BEP Meeting Minutes: January 3, 2013 (approval)
The Board voted (4-0-2-1) on a motion to approve consent agenda item 1 as presented. The vote was taken pursuant to 38 M.R.S. § 341-D.
Board members Alvin Ahlers, Elizabeth Ehrenfeld, Robert Foley, and M. Wing Goodale voted to support the motion. Board members Richard Gould and Susan Lessard abstained. Board member Thomas Eastler was absent.

III. Regular Agenda Items:

1. Control Devices Inc and GTE Support Operations Inc, Hazardous Waste Facility Post-Closure License Modification #O-000070-HG-F-M // Approval

Staff: Stacy Ladner, Bureau of Remediation and Waste Management

The Board voted (6-0-0-1) on a motion to approve Maine Hazardous Waste, Septage and Solid Waste Management Act Post-Closure License Modification for Control Devices Inc and GTE Support Operations Inc as presented. The vote was taken pursuant to 38 M.R.S. §§ 1301 et seq., 10 M.R.S. § 9418(1) and § 9418(2)(A), and 06-096 CMR 850 through 857 the Maine Hazardous Waste Management Rules.

Board members Alvin Ahlers, Elizabeth Ehrenfeld, Robert Foley, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board member Thomas Eastler was absent.

2. Chapter 2: Rules Concerning the Processing of Applications and Other Administrative Matters, Section 1(B) Definition of Aggrieved Person (Provisional Adoption)

Staff: Cynthia S. Bertocci, Board Executive Analyst

The Board voted (6-0-0-1) on a motion to provisionally adopt Chapter 2, Section 1(B) Definition of Aggrieved Person and associated basis statement and response to comments as presented. The vote was taken pursuant to 38 M.R.S. § 341-H(1) and Resolve 2011, chapter 144 "Resolve, To Require Rulemaking Regarding Standing to Appeal in Proceedings before the Board of Environmental Protection and the Maine Land Use Regulation Commission."

Board members Alvin Ahlers, Elizabeth Ehrenfeld, Robert Foley, M. Wing Goodale, Richard Gould and Susan Lessard voted to support the motion. Board member Thomas Eastler was absent.

3. Chapter 882: Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products / Citizen Petition for Rulemaking to Require Safer Alternatives to Bisphenol A in Food and Beverage Packaging for Young Children / Deliberative Session

Staff: Heather Parent, DEP Policy Director

George MacDonald, DEP Sustainability Director

Kerri Malinowski, DEP Sustainability Division

Dr. Andrew Smith, State Toxicologist, Dept. of Health and Human Services

This was the fourth deliberative session on the citizen petition for rulemaking to require safer alternatives to bisphenol A in food and beverage packaging for young children. Following further discussion of the staff's January 3, 2013 recommendation and the record in the proceeding, Board members directed staff to draft language and a basis statement and response to comments that would prohibit the sale of packaging for infant formula and baby food that contained intentionally added bisphenol A. The Board will convene a meeting on January 24, 2013 to consider the revised language and basis statement. No vote was taken.

(The meeting adjourned at approximately 10:30 a.m.)

Next Meeting – Thursday, January 24, 2013 – Elks Lodge
397 Civic Center Drive, Augusta

